



[Billing Code: 4710-18]

DEPARTMENT OF STATE

[Public Notice: 7971]

60-Day Notice of Proposed Information Collection: Reporting Requirements for Responsible Investment in Burma

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the *Federal Register* preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department will accept comments from the public up to [insert date 60 days from date of publication in the *Federal Register*].

ADDRESSES: You may submit comments by any of the following methods:

- Web: Persons with access to the Internet may view and comment on this notice by going to the Federal regulations website at www.regulations.gov. You can search for the document by: selecting “Notice” under Document Type, entering the Public Notice number as the “Keyword or ID”, checking the “Open for Comment” box, and then click “Search”. If necessary, use the “Narrow by Agency” option on the Results page.
- E-mail: BurmaPRA@state.gov
- Mail (paper, or CD submissions): U.S. Department of State, DRL/EAP Suite 7817, Burma Human Rights Officer, 2201 C St. NW, Washington, DC 20520
- Fax: None
- Hand Delivery or Courier: None

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Stacey May, U.S. Department of State, DRL/EAP Suite 7817, 2201 C St. NW, Washington, DC 20520, who may be reached on 202-647-8260 or at maysa2@state.gov

SUPPLEMENTARY INFORMATION:

- Title of Information Collection: Reporting Requirements on Responsible Investment in Burma.
- OMB Control Number: None
- Type of Request: New Collection
- Originating Office: U.S. Department of State, DRL/EAP
- Form Number: None
- Respondents: U.S. persons and entities engaged in new investment in Burma in an amount over \$500,000 in aggregate, per OFAC General License 17, which authorizes new investment in Burma.
- Estimated Number of Respondents: 150
- Estimated Number of Responses: 150
- Average Hours Per Response: 21 hours
- Total Estimated Burden: 3,150 hours
- Frequency: Annually
- Obligation to Respond: Mandatory

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection:

Section 203(a)(1)(B) of the International Emergency Economic Powers Act (IEEPA) grants the President authority to, inter alia, prevent or prohibit any acquisition or transaction involving any property, in which a foreign country or a national thereof has any interest, by any person, or with respect to any property, subject to the jurisdiction of the United States, if the President declares a

national emergency with respect to any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States. See 50 U.S.C. 1701 et seq.

In Executive Order 13047 of May 20, 1997, the President determined that the actions and policies of the Government of Burma, including its large-scale repression of the democratic opposition in Burma, constituted an unusual and extraordinary threat to the national security and foreign policy of the United States, declared a national emergency to deal with that threat, and prohibited new investment in Burma. In subsequent Executive Orders, the President modified the scope of the national emergency to address additional concerns with the actions and policies of the Government of Burma. In Executive Order 13448 of October 18, 2007, the President modified the emergency to address the continued repression of the democratic opposition in Burma, manifested in part through the commission of human rights abuses and pervasive public corruption. In Executive Order 13619 of July 11, 2012, the President further modified the emergency to address, inter alia, human rights abuses particularly in ethnic areas.

In response to several political reforms by the Government of Burma and pursuant to authority granted by IEEPA, the Department of the Treasury's Office of Foreign Assets Control (OFAC) issued a general license (GL 17) on July 11, 2012 authorizing new investment in Burma, subject to certain restrictions and conditions.

In order to support the Department of State's efforts to assess the extent to which new U.S. investment authorized by GL 17 furthers U.S. foreign policy goals of improving human rights protections and facilitating political reform in Burma, GL 17 requires U.S. persons engaging in

new investment in Burma to report to the Department of State information related to such investment, as laid out in the “Reporting Requirements on Responsible Investment in Burma,” (hereafter referred to as the “collection”). This collection is authorized by section 203(a)(2) of IEEPA, which grants the President authority to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in section 203(a)(1) of IEEPA.

A copy of the “Reporting Requirements on Responsible Investment” can be reviewed at <http://www.humanrights.gov/wp-content/uploads/2012/07/Burma-Responsible-Investment-Reporting-Reqs.pdf>

Methodology:

The Department of State will collect the information requested via electronic submission.

Additional Information:

It is the overarching policy goal of the U.S. Government to support political reform in Burma towards the establishment of a peaceful, prosperous, and democratic state that respects human rights and the rule of law. In the past, some foreign investment in Burma has been linked to human rights abuses, particularly in the area of natural resource development in ethnic minority regions. For example, some foreign investments have entailed acquisition and control of land in disputed ethnic minority territories exacerbating or contributing to both social unrest and armed conflict and leading to adverse community and environmental impacts. Increased military/security presence in disputed ethnic minority areas to provide security for foreign investment projects is reported to have led to seizures of farm land, involuntary relocations, forced labor, torture, summary execution, and sexual violence. In June 2011, a 17-year ceasefire

agreement with the Kachin Independence Army (KIA) broke down, and both the Burmese Government and the KIA have since publicly attributed the renewed armed fighting at least partially to foreign-funded investment projects, which include power generation, oil and gas, jade, and gold mining investment projects in the region. The Burma Army has reportedly forced civilians to work as porters and human mine sweepers in northern Shan State in connection with the Shwe Gas pipeline and there have been numerous recent reports of forced labor, torture, forced conscription, rape and sexual violence in Kachin and Shan states along the Shwe Gas pipeline corridor.

The collection will help the Department of State, in consultation with other relevant government agencies, to evaluate whether easing the ban on investment by U.S. persons advances U.S. foreign policy goals to address the national emergency with respect to Burma. In addition, the Department of State will use the collection as a basis to conduct informed consultations with U.S. businesses to encourage and assist such businesses to develop robust policies and procedures to address any potential adverse human rights, worker rights, anti-corruption, environmental, or other impacts resulting from their investments and operations in Burma. The Department of State will use the collection of information about new investment with the Myanmar Oil and Gas Enterprise (MOGE) to track investment that involves MOGE and to identify investors with whom it may be beneficial to have targeted consultation on anti-corruption and human rights policies. The public, including civil society actors in Burma, may use publicly available information resulting from the collection to engage U.S. businesses on their responsible investment policies and procedures and to monitor the Burmese government's management of revenues from investment.

U.S. persons to whom this requirement applies will be required to submit a version of the report to the U.S. Government for public release, from which information considered in good faith to be exempt from disclosure under FOIA Exemption 4 -- i.e. trade secrets or commercial or financial information that is privileged or confidential -- may be withheld. The Department of State will make this version of the report publically available in order to promote transparency with respect to new U.S. investments in Burma. In the past, the absence of transparency or publicly available information with respect to foreign investment activities in Burma has contributed to corruption and misuse of public funds, the erosion of public trust, and social unrest in ethnic minority areas and has led to further human rights abuses and repression by the government and military. Public disclosure of certain aspects of the collection therefore will promote the policy of transparency through new U.S. investment, a key U.S. foreign policy objective in Burma.

Burmese civil society groups, particularly those representing ethnic minority communities, have requested that the Department of State make public certain information obtained through the collection on investments purportedly made for the benefit of the Burmese people, as a means of holding their own government accountable. Nobel Peace Prize laureate Aung San Suu Kyi, leader of Burma's democratic opposition party and recently elected to a seat in Burma's parliament, also underscored the importance of transparency in her recent remarks in Bangkok, noting that she did not want "more investment to mean more possibilities for corruption." This was among the most specific of the recommendations she made to the international community, stressing that "Transparency is very important if we are going to avoid problems in the future... So whatever investments, governmental agreements, whatever aid might be proposed, please make sure that it is transparent, that the

people of Burma are in a position to understand what has been done, and how and for whom the benefits are intended.”

Therefore public release of portions of this collection is aimed at providing civil society this type of information to both ensure the transparency of U.S. investment in Burma and to encourage civil society to partner with their government and U.S. companies towards building responsible investment, which ultimately promotes U.S. foreign policy goals.

July 31, 2012

Daniel Baer
Deputy Assistant Secretary
Department of State